## IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA BECKLEY DIVISION

MICHAEL D. RUSE on his own	
behalf and on behalf of all others	)
similarly situated, et al.	)
Plaintiffs,	) )
v.	Civil Action No. 5:22-cv-00405  (Judge Volk)
JEFF S. SANDY, et at.,	) (Judge volk)
Defendants.	)

## ORDER ESTABLISHING RESOLUTION DEADLINES

On Thursday, November 9, 2023, the Court convened a hearing for the purpose of allowing Plaintiffs and Defendants, Sandy, Jividen, Douglas, Marshall and Francis (hereinafter "the Settling Defendants.") to announce a purported settlement between Plaintiffs and a Putative Class and the Settling Defendants. Plaintiffs appeared by counsel Stephen New, Emilee Wooldridge, and Amanda Taylor. Defendants Sandy, Jividen, Douglas and Marshall appeared by counsel Michael Mullins and Amy Smith. Defendant Francis appeared by counsel Chip Williams. The remaining Defendants also appeared by counsel of record.

The Court Ordered the parties to submit a proposed schedule, by which certain deadlines would be accomplished in furtherance of a purported settlement as announced in open court. Accordingly, the Court hereby Orders, and Directs as follows:

1. Plaintiffs and the Settling Defendants shall file a Joint Motion for Preliminary Approval, no later than December 8, 2023, attaching as Exhibits thereto, a Settlement Agreement, containing the terms of the agreement between Plaintiffs and Putative Class and the Settling Defendants and exhibits attached thereto; declarations of Putative Class

counsel; declaration on adequacy of notices and notice plan; and declaration in support of a limited fund.

- 2. The Court shall hold a hearing on the Joint Motion for Preliminary Approval on \_\_\_\_\_;

Additionally, the Court is aware that certain motions remain pending, namely, *Defendants'*Joint Motion to Dismiss Plaintiffs' Second Amended Complaint [ECF 483-484]; Plaintiffs' Motion for Class Certification [ECF 518; 587]; Plaintiffs' Motion to Supplement the Record in Support of Plaintiffs' Motion for Class Certification [ECF 767-770]; Plaintiffs' Motion for Leave to File a Third Amended Complaint [ECF 718-719]; Plaintiffs' Motion for a Finding of Spoliation and for Sanctions Against Defendants Sandy, Jividen, Douglas, and Marshall [ECF 713]; along with Judge Aboulhosn's Order and Proposed Findings and Recommendation [ECF 774]; as well as Objections to Magistrate Judge's Decision to District Court by non-parties Justice and Abraham [ECF 784], and any corresponding responses and replies.

As it pertains to the Settling Defendants, the Court hereby DENIES, without prejudice, Defendants' Joint Motion to Dismiss Plaintiffs' Second Amended Complaint [ECF 483-484]; Plaintiffs' Motion for Class Certification [ECF 518; 587]; Plaintiffs' Motion to Supplement the Record in Support of Plaintiffs' Motion for Class Certification [ECF 767-770]; and Plaintiffs' Motion for Leave to File a Third Amended Complaint [ECF 718-719]. This Order does not affect these Motions as they relate to the non Settling Defendants. The Objections to Magistrate Judge's Decision to District Court by non-parties Justice and Abraham is also DENIED, without prejudice. The Court further ORDERS that in the event that this Court does not approve the settlement that

Defendants Sandy, Jividen, Douglas and Marshall will have 14 days from the date that the Court denies the Motion for Final Approval of the Settlement to file Exceptions and Objections to Judge Aboulhosn's Order and Proposed Findings and Recommendations [ECF 774]. Similarly, in the event that this Court does not approve the settlement proposed herein, the Motions denied without prejudice may be re-filed with the Court.

The Clerk is hereby DIRECTED to send a copy of this Order to counsel of record and any unrepresented party.

Entered:	
Honorable Frank W. Volk	

## Submitted by:

/s/ Stephen Paul New/ams

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